

requirements contained in Ordinance No. 647. In addition, I was concerned that the City's existing rights-of-way ordinance pertaining to excavation permits was inadequate to address increased use of the City's rights-of-way. Because of these concerns, I recommended that the Common Council authorize the hiring of a consultant and/or an attorney to develop a comprehensive telecommunications ordinance and to advise the City on how to proceed with Chibardun's request for a cable franchise. The Common Council members considered statements by Chibardun and Marcus Cable and ultimately adopted my recommendation.

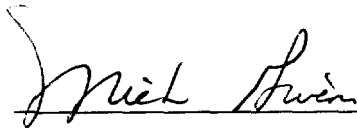
20. Attached hereto as Exhibit 6 is a true and correct copy of the minutes of the May 13, 1997 Common Council meeting.

21. On May 20, 1997, Chibardun submitted to the City several applications for permits to allow it to begin excavating and begin constructing its proposed telecommunications and cable television system within City rights-of-way. Chibardun requested permits covering approximately six and one-half miles of City rights-of-way. Historically, the permits submitted by either Marcus Cable or GTE North, Inc. were for construction covering approximately 1,000 to 2,000 feet or less of City rights-of-way.

22. Based on a June 9, 1997 letter from Mr. Rick Vergin, it was my understanding that Chibardun had decided to cancel its plans to begin construction in 1997, and was therefore withdrawing its permit applications.

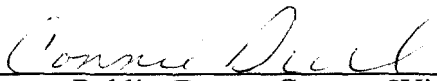
23. I recently reviewed certain documents and correspondence between Chibardun representatives and representatives of the City of Barron, Wisconsin. The materials I reviewed informed me that the City of Barron had requested information from Chibardun that was the same type of information requested in Curtis Snyder's May 23, 1997 letter to Chibardun, and that the City of Barron received the requested information. Chibardun has

never explained to the City of Rice Lake why it would not provide this same type of information to the City of Rice Lake.



Mick Givens

Subscribed and sworn to before me
this 26 day of November, 1997.



Notary Public, Barron County, Wisconsin

My commission:

CONNIE DIEHL

Notary Public

Commission Expires March 5, 2000

F:\DOC5\WD\20706\13\JW4331.WPD

EXHIBIT 1

CABLE COMMISSION

Contact Person: Jim Drost
Telephone Number: 234-6694

April 11, 1997

NOTICE OF MEETING!!!

A meeting of the Rice Lake Cable Commission will be held on Tuesday, April 15, 1997 at 4:00 p.m. in the Council Chambers at City Hall, 11 E. Marshall St., Rice Lake.

AGENDA

1. Call Meeting to Order.
2. Public Appearances.
3. Approval of the Minutes of the March 18, 1997 Meeting.
4. Cable Director's Report.
5. Bills to be Paid.
6. Chibardun Presentation.
7. Adjournment.

Jim Drost, Chairman
Rice Lake Cable Commission

Copies: Mayor, City Administrator, City Clerk-Treasurer, City Attorney,
Commissioners (7), Media (5), Marcus Cable, Cable Director, Common
Council (7), Utilities, Library, Bulletin Board, File and Paul Reigel.

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"Any person who has a qualifying disability as defined by the American with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format must contact: Kathleen V. Morse, City Clerk-Treas., 11 E. Marshall Street, Rice Lake, [715] 234-7088 by 2:00 p.m. the Friday prior to the meeting so that any necessary arrangements can be made to accommodate each request."

It is possible that members of and possible a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

**Cable Commission Meeting
April 15, 1997**

The meeting was called to order at 4:00 p.m. in the Rice Lake City Council Chambers by Chairman Jim Drost.

Present were: Chairman Jim Drost, Barb Nelson, Gordy Gerland, Don Carney, Sue Dietz, James Dorrance II, and Cable Director Mick Givens.

Absent was Joyce Nelson whose resignation, effective this date, was on the Chairman's desk.

Guests were: Pat Anderson (Regional Plant Manager for Marcus Cable), Bruce Severude (Marcus Cable), Lori Roemhild (Chibardun), and Scott Hickok.

The Chibardun presentation was moved to the head of the agenda. Lori Roemhild spoke to request a formal meeting to negotiate a contract. Tentatively the meeting will be held Wednesday, April 23 at 4:00 in the City Council Chambers. The Chairman will do his best to have all necessary city officials present. The City Attorney will be apprised of the issues that would need to be negotiated so that a determination of whether an open or closed meeting will be appropriate. As a point information, Chibardun may be offering telephone service as soon as October.

The minutes of the March 18, 1997 meeting were approved upon the motion of Barb Nelson and the second of Gordy Gerland.

The Cable Director's report was next. See attachments A and A-1.

Mick also asked Marcus Cable for additional information on inside wire guarantees and also for on time repairs.

Some Time-Warner systems are being exchanged with some Marcus systems. Reportedly some Time-Warner systems around Milwaukee could be exchanged for systems around Eau Claire belonging to Marcus.

Mick has talked with Gary Fields. The racing association is anxious to have the races carried on Channel 14. Mick has also put the channel on a waiting list to use a booth at the track. The benefit would be to protect our equipment from dust and dirt. There was also discussion of having a weekly racing update but the program is dependent on there being no loss of sponsors for the race track.

There is a seminar on negotiating telecommunication/franchise contracts

being offered at Georgetown University for which Mick had a brochure. It's too far away to be practical but we should consider sending Mick if one is held nearer here.

It was moved by Gordy Gerland and seconded by Jim Dorrance to approve the bills. See attachment B.

In May, Mick will present information on digitalizing - the benefits and the costs.

Motion to adjourn was made by Gordy Gerland and seconded by Barb Nelson.

Sue Dietz
Secretary

EXHIBIT 2

CABLE COMMISSION

Contact Person: Jim Drost
Telephone Number: 234-6694

April 17, 1997

NOTICE OF MEETING!!!

A meeting of the Rice Lake Cable Commission will be held on Wednesday, April 23, 1997 at 4:00 p.m. in the **Council Chambers at City Hall, 11 E. Marshall St., Rice Lake.**

AGENDA

1. Call Meeting to Order.
2. Public Appearances.
3. Approval of the Minutes of the April 15, 1997 Meeting.
4. Open Session Discussion of Ordinance 606 - Franchise Agreement with Chibardun Telephone Co.
5. Adjournment.

Jim Drost, Chairman
Rice Lake Cable Commission

Copies: Mayor, City Administrator, City Clerk-Treasurer, City Attorney,
Commissioners (7), Media (5), Marcus Cable, Cable Director, Common
Council (7), Chibardun, Utilities, Library, Bulletin Board, File and Paul Reigel.

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Cable Commission Meeting
April 23, 1997

The meeting was called to order at 4:00 p.m. in the Rice Lake City Council Chambers by Chairman Jim Drost.

Present were: Chairman Jim Drost, Jim Lucas, Barb Nelson, Gordy Gerland, Don Carney, Sue Dietz, James Dorrance II, and Cable Director Mick Givens.

Guests were: Rick Vergin, Scott Hickok, Pat Anderson, Karen Sanderson, Bruce Severude, Eric Sanders, Kathy Morse, and Frank Ferguson.

A motion was made by Gordy Gerland to approve the minutes of the April 15, 1997 meeting. The motion was seconded by Barb Nelson. Motion carried.

Chairman Drost officially welcomed Jim Lucas as the new member of the Cable Commission. His experiences as a GTE employee and also as an alderman will be valuable to the commission.

Chairman Drost explained to all assembled that the subject being discussed today is the franchise agreement which appears in our Code of Ordinances. Since we will be discussing compliance with an ordinance rather than negotiating a contract, discussion must be in open session.

Rick Vergin of Chibardun gave us a bit of background about that company. Chibardun is a co-operative that has been in existence for 40 years. It is centered around Dallas. They have 5,500 telephone lines and approximately 2,000 cable customers. They would like to expand out of their franchised area. The telephone expansion is separate and will go forward independently of the cable if needed. Chibardun has formed a subsidiary, CTC Telecom to serve out of their area customers.

Mr. Vergin also said that they have targeted June 1st to start working on telephone lines (with fiber-optic capability). Their intent is to use ring technology to insure service in the event of an interruption.

Chibardun is hoping to be allowed a 3-year window to extend service to the whole city. Ideally the cable service would expand out as the telephone service does. They would start out serving the "ringed" area. Initially the cables would come up SS from Cameron to Rice Lake. It would come as far north as Messenger Street before going west out of town to loop back to Barron. Hopefully, all cables would be buried. Fiber optic is buried 48" deep feeders are buried at 30" and drops to houses are 18" deep. The only place aerial wiring is being considered is over obstacles such as the river.

Chibardun is hoping an office in Cameron could be considered a "local" office, with a non-toll phone number from Rice Lake. If forced to have an offices in Rice Lake, that office would be in addition to the office in Cameron, not a replacement for it.

Chibardun's initial cable offering would be a 32 channel basic package with 4 premium channels. It is possible that the rate might be \$19.95 for the basic package. They will know more definitely soon.

Karen Sanderson of Marcus Cable urged caution as we move into negotiations. She also reminded us that all franchise holders must be treated equally. Also the franchise agreement requires that any area of the city with 40 customers per mile must be served.

Discussion followed about the renegotiation of the franchise agreement of Marcus with the city. It was pointed out that there would be advantages to have simultaneous starts and finishes to both franchise agreements. It is time to start renegotiating in 1998 as the terms of the franchise agreement dictate, so possibly Marcus will consider it to be in their best interests to begin talks now. Karen will be getting in touch with the people who will be making that decision.

Mick Givens, our Cable Director, suggested a needs assessment be done. Karen concurred as it is a requirement of renewing the franchise agreement. Mick also suggested an adjustment to the length of time of the agreement to get both to end at the same time as it would be easier to give the same terms to both.

Rick offered his opinion that the placing of service doesn't require a franchise but the serving of customers does. He also believes that if an agreement can't be reached by June 1st, Chibardun may have to re-evaluate their decision to put cable in the same trenches with the fiber-optic telephone cable. He also believes that greater competition should drive the cable providers to meet the needs of the customers, therefore, they shouldn't have to be legislated.

Kathy Morse suggested that the city should get in touch with the Wisconsin League of Municipalities to see if they would have any examples of how other cities handle competition.

It was moved by Jim Dorrance and seconded by Barb Nelson to adjourn.. We will meet again next Tuesday, April 29 at 4:00. Motion carried.

EXHIBIT 3

CABLE COMMISSION

Contact Person: Jim Drost
Telephone Number: 234-6694

April 25, 1997

NOTICE OF MEETING!!!

A meeting of the Rice Lake Cable Commission will be held on Tuesday, April 29, 1997 at 4:00 p.m. in the Council Chambers at City Hall, 11 E. Marshall St., Rice Lake.

AGENDA

1. Call Meeting to Order.
2. Public Appearances.
3. Approval of the Minutes of the April 23, 1997 Meeting.
4. Open Session Discussion of Title 9, Chapter 4 - Cable Television Ordinance.
5. If necessary, motion to adjourn into CLOSED SESSION pursuant to Wisconsin Statutes §§ 19.85(1)(e) deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

--- C L O S E D S E S S I O N ---

- A. Franchise Agreements Negotiations.
6. Motion to reconvene into Open Session and to take any action resulting from Closed Session.
7. Adjournment.

Jim Drost, Chairman
Rice Lake Cable Commission

Copies: Mayor, City Administrator, City Clerk-Treasurer, City Attorney,
Commissioners (7), Media (5), Marcus Cable, Cable Director, Common
Council (7), Chibardun, Utilities, Library, Bulletin Board, File and Paul Reigel.

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It is possible that members of and possible a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

Cable Commission Meeting
April 29, 1997

The meeting was called to order at 4:00 p.m. in the Rice Lake City Council Chambers by Chairman Jim Drost.

Present were: Chairman Jim Drost, Barb Nelson, Gordy Gerland, Don Carney, Sue Dietz, James Dorrance II, and Cable Director Mick Givens.

Excused was: Jim Lucas

Guests were: Rick Vergin, Scott Hickok, Pat Anderson, Karen Sanderson, Bruce Severude, and Eric Sanders.

It was moved by Gordy Gerland to approve the minutes of the April 23, 1997 meeting. Barb Nelson seconded the motion. Motion carried.

It was announced by Chairman Drost that a copy of Chapter 4, the Cable Television Ordinance of our City Code was sent to all concerned. We will all be able to refer to the same information. He then recapped where we left off in our discussion at the last meeting.

Karen Sanderson was asked if Marcus Cable would like to renegotiate their franchise at this time too. Karen replied that Marcus' renegotiation is a moot point right now, a side issue. Chibardun is the issue now.

Rick Vergin passed out a list of concerns. He would have preferred to discuss the matter in a closed session. He explained that Chibardun is a cooperative. It operates as a non-profit entity. Any money raised over and beyond expenses is returned back to the rate-payers. Rice Lake would be served by a subsidiary which would not be a cooperative but would operate on a similar principal.

Chairman Drost explained that on the advice of counsel, these discussions would have to remain in open session. The compliance with an ordinance and not really a negotiation which would be covered by any existing exception to the open meeting law.

Rick explained that in Rice Lake, Chibardun's budget is 15% for cable and 85% for telephone. If it wasn't for laying of the telephone cable, the laying of television cable wouldn't be considered. It's too expensive to lay the coaxial cable separately.

The two requirements that Chibardun is hoping to have changed are: 1) Chibardun needs a 3 year period to get everything installed (9-4-8 of the

code). 2) Chibardun would like to be excused from having an office in the city (9-4-26 of the code). He also brought it to the commissions attention that section 9-4-9 contains phraseology that is out of date. We might want to clean up the verbiage.

Jim Drost pointed out that we will need a new telecommunications ordinance by the year 2001 and if we don't address it now, it will be taken care of then.

Rick expressed that Chibardun would like to be granted a 15 year franchise to ensure that they could get a return of value for the outlay.

Jim Dorrance expressed that opinion that a precedent has been set that would allow that a 3 year setup.

Chibardun would be able to commit to a plan which would schedule what areas would be served each year. However, Rick does not wish to share that amount of detail in open discussion. Rick also reiterated that Chibardun will be maintaining a building in Rice Lake but does not wish to staff an office in that building.

At this point, Chairman Drost sought the consensus of the Cable Commission members that there is nothing further that this commission can do on this matter. The City Council is the only political body which can alter the franchise which is after all an ordinance.

It was moved by Barb Nelson and seconded by Jim Dorrance that we move this matter (Chibardun's proposal) to the City Council for consideration. Motion Carried.

Rick Vergin suggested that the city hire an FCC attorney. (The city has access to these people)

Karen Sanderson urged the city not to act in haste. She stressed that a level playing field is important. We will protect our rights, she said.

Jim Dorrance moved for adjournment. Gordy Gerland seconded the motion. Motion carried.

Respectfully submitted

Sue Dietz

EXHIBIT 4

Briefing Report

Item 7E

To: Common Council

From: Cable Director (CD)

For: Regular Meeting of May 13, 1997

Subject: Chibardun Telephone Cooperative, Inc. Request

Date: May 8, 1997

1 I. Background.

2 Following an article in the April 9, 1997 Chronotype, Chibardun
3 representatives were present at the April 15 regular meeting of the
4 Cable Commission to request the Commission set a meeting date, with a
5 closed session, to begin negotiations of a franchise agreement to allow
6 Chibardun to provide cable television service to the residents of the
7 City. Commission meetings were held in open session, at the advice of
8 City Attorney, on April 23 and April 29. Chibardun has asked for three
9 years to complete the construction of the cable system and for a
10 relaxation of the existing franchising ordinance requirement of an
11 office in the City. At the April 29 meeting, the Commission voted to
12 turn the issue over to the City Council without recommendation. The City
13 has received communications from a Marcus Cable attorney and from
14 Chibardun.

15

16 II. Problem/Issue.

17 Chibardun wishes to construct/operate telecommunications and cable
18 television systems on the public rights of way throughout the City. They
19 apparently feel no grant or permission of any type, from the City, is
20 necessary to begin telephone construction, which they state will start
21 in June of this year. They recognize that a franchise is necessary to
22 operate a cable tv system, however, they desire changes to the current
23 franchise ordinance. Chibardun has requested/urged closed session
24 meetings at each of the times it has appeared before the Commission, has
25 stated that the signing of non-disclosure statements would be required
26 of those viewing or hearing their plans, and has been extremely
27 reluctant to publicly discuss it's intentions. Thus, the Commission has
28 had very little information to evaluate since there have been no
29 specific plans, drawings, specifications, or anything else provided.
30 Additionally, Chibardun insinuates, in the letter, that if the City has
31 not reached a decision positive to their requests by June 1, they may
32 never again be interested in providing competition for the incumbent
33 operator.

34

35 III. Analysis.

36 Complex Federal regulations govern most of the City's course of action
37 in the process of franchise grant and renewal. Equally complex Federal
38 regulations, as well as State regulations govern telecommunications. I
39 have attached several items pertinent to the subjects at hand, not
40 intending for you to read them in their entirety, but to show how
41 complicated the issues are. Areas highlighted are pertinent enough to be
42 read and pondered. Also to be given great consideration is that Marcus
43 Cable, as the incumbent cable provider, has a number of rights which the
44 City must be careful not to infringe upon. Much of the Federal
45 Telecommunications Act of 1996 is being interpreted in the courts. A

1 step in the wrong direction by the City would most likely end up in the
2 court system.

3

4 Although the only official action on this issue at the Cable Commission
5 was to turn the matter over to the Council, there were more than 2 ½
6 hours of discussion and some apparent difference of opinion on a course
7 of action. Since there are two Council Persons on the Commission, I will
8 defer to their accounting of those discussions.

9

10 I do not feel the three year construction proposal by Chibardun is a
11 problem as it relates to the existing franchise ordinance, and may be in
12 complete compliance with Federal provisions requiring the Franchise
13 Authority to "...allow the applicant's cable system a reasonable period of
14 time to become capable of providing cable service to all households in
15 the franchise area;..." Perhaps a build schedule and guarantee/penalty for
16 non-compliance could be a separate document of some sort. Although there
17 is no time-frame or schedule described in the current franchise, Marcus
18 Cable was allowed time to complete the rebuild/upgrade. The franchise
19 states in Section 9-4-13 (g) "Franchisee shall provide upon request a
20 free drop to all government buildings and schools which are passed by
21 the cable plant.", so, as plant were built, schools and government
22 buildings could be served. I have concern for inclusion of the Public,
23 Educational & Government channel(TV-14) since Chibardun's presentation
24 did not include a plan for a feed from the studio to the primary build
25 area which was described as from South Main to Messenger and then west.
26 I would also point out that Chibardun's suggested wording for Section 9-
27 4-8 (a) gives them three years from the date of service to the first
28 customer to complete the build. A start date should be inserted.

29

30 Removal of the requirement for an office in the City would have the
31 effect of removing the requirement for Marcus Cable as well due to
32 franchise Section 9-4-5 "...shall be deemed amended...so as to give Grantee
33 the benefit of any such more favorable terms." Marcus owns the building
34 on North Main where it's office was for many years, until their move to
35 the leased facility on south Main. Although Marcus has it's district
36 office in the City, Section 9-4-26 only required them to have "...a local
37 office and telephone number for the conduct of matters related to the
38 Franchise." The franchise does not define "office", so a cable provider
39 could satisfy the requirement very minimally. To eliminate the
40 requirement for an office in the city, which Marcus has provided for the
41 ten plus years of this franchise and before, would cause a strong
42 reaction from Marcus, and may not be a "fair" thing to do.

43

44 I have not received many comments from City residents regarding their
45 feelings on a competitive cable provider, but the majority of what I
46 have received have been in favor of competition. I, personally, am in
47 favor of competition. We are all, though, basing our opinions on what
48 little we know of the potential competitor and it's plans. I feel
49 Chibardun's time constraints are a problem they have created themselves.
50 I have often said, "Failure to plan on your part does not constitute an
51 emergency on my part." In a press release to a local radio station,
52 Chibardun stated that an announcement was made at the April 5th Annual
53 Meeting unveiling plans to provide local telephone and cable tv service
54 to Barron and Rice Lake. Certainly, there was knowledge of the plan

1 prior to the announcement. Chibardun's letter insinuates that if the
2 City has not reached a decision positive to their requests by June 1,
3 they may never again be interested in providing competition for the
4 incumbent operator, yet, at the April 29 Cable Commission meeting, the
5 Chibardun representative stated, "Time is somewhat of a factor. If we
6 are going to construct this year, you know, and nothing says that we, if
7 this doesn't happen this year, that we might, you know, that if we don't
8 have a time line and we don't meet some dates, that we hold off any
9 service 'til next year because of legal reasons or whatever. But we have
10 some deadlines around the first of June as far as ordering equipment.
11 And I guess if there's, I guess we'd like to know by then. Otherwise we
12 might have to wait a year before we can (trailing word)".

13
14
15 **IV. Options.** Options include:

- 16 A. Change the franchise ordinance as Chibardun requested (specific
17 wording provided by City) and give it a 15 year life.
18 B. Change the franchise ordinance as Chibardun requested (specific
19 wording provided by City) and keep the current franchise
20 expiration date of 2001.
21 C. Take no action. (Request is basically delayed or denied without
22 official action)
23 D. Take no action; Instruct Chibardun to provide more
24 comprehensive plan and information to Council or Commission for
25 Public input.
26 E. Take no action; Refer matter back to Cable Commission (with or
27 without recommendation on Chibardun's requests).
28 F. Authorize/suggest Cable Commission hire consultant and/or
29 attorney to develop a telecommunications ordinance and to advise
30 on proper course of action with regard to Chibardun's
31 telecommunications and cable tv entry into the City and to
32 insure proper procedures are followed to minimize City liability
33 (with or without recommendation on Chibardun's requests).

34 **V. Recommendation.** It is recommended that the Council adopt Option
35 F. Authorize/suggest Cable Commission hire consultant and/or attorney
36 to develop a telecommunications ordinance and to advise on proper
37 course of action with regard to Chibardun's telecommunications and
38 cable tv entry into the City and to insure proper procedures are
39 followed to minimize City liability (with or without recommendation
40 on Chibardun's requests).

41
42 Should the Council adopt option A or B, I suggest the motion include
43 "Pending Attorney approval" and that that action be discussed with an
44 attorney specializing in telecommunications law prior to enactment.
45
46

EXHIBIT 5

CITY COUNCIL MEETING OF MAY 13, 1997

3:31:00 **VERGIN:** DROPPED THE REQUEST FOR WAIVING THE OFFICE REQUIREMENT.

3:35:00 **VERGIN:** TALKS OF COMPETITIVE SITUATION AND TAKES ISSUE WITH STATEMENTS IN CABLE DIRECTOR GIVENS' BRIEF ON THEIR NON-RELEASE OF INFORMATION AND NON-DISCLOSURE FORMS. MADE COMMENTS BASICALLY STATING THE CABLE COMMISSION WOULDN'T GIVE THEM CLOSED SESSIONS WHICH THEY SHOULD HAVE BEEN ALLOWED TO HAVE TO PROTECT THEIR PLANS IN A COMPETITIVE OR BARGAINING SITUATION. HERMAN FRIESS (RL CITY ATTORNEY) TELLS HIM LAW ALLOWS CLOSED MEETING FOR CITY'S REASONS. NOT CHIBARDUN'S. VERGIN STATES IF WE'RE REQUESTED TO PROVIDE MORE INFORMATION WE'LL DO THAT BUT I WOULD JUST ASK THAT THE COMPETITIVE ISSUES BE RECOGNIZED.

3:38:45 **VERGIN:** THE OTHER ITEM I GUESS THAT I'D LIKE TO ADDRESS IS THE TIME CONSTRAINTS THAT UM. ((QUOTES GIVENS FROM BRIEF TO COUNCIL) I FEEL THAT CHIBARDUN'S TIME CONSTRAINTS ARE PROBLEMS THEY HAVE CREATED THEMSELVES. I HAVE OFTEN SAID FAILURE TO PLAN ON YOUR PART DOES NOT CREATE AN EMERGENCY ON MY PART.) SPEAKING TO THE FACT THAT WE ADDRESS THE UH, MADE AN ANNOUNCEMENT ON APRIL 9 AND WE HAVE ANNOUNCED OR HAD TALKED ABOUT SOME DEADLINES THAT WE HAVE. MAYBE I SHOULD SPEAK TO THAT RIGHT NOW. THE CABLE TV SYSTEM WOULD NOT BE POSSIBLE IF WE WERE NT PUTTING IN TELEPHONE IT JUST ISN'T, THERE ISN'T ENOUGH DOLLARS INVOLVED TO GO IN ANY BURY THE ENTIRE TOWN OF RICE LAKE, COMPETE WITH AN INCUMBENT PROVIDER AND MAKE ENDS MEET. THE ONLY WAY IS TO IT WITH THE TELEPHONE CONSTRUCTION. THE CABLE TV CONSTRUCTION IS ABOUT 15% OF OUR BUDGET. SO 85% OF OUR BUDGET IS TELEPHONE. THE OTHER 15% IS TV. MY, THE QUANDRY THAT I HAVE IS, I DIDN'T REALIZE THERE WAS GOING TO BE THIS BIG OF AN ISSUE ON ALLOWING US TO HAVE A THREE YEAR BUILD-OUT. FOR COMPETITIVE REASONS AND OUR OWN SUBSCRIBERS, I DELAYED AN ANNOUNCEMENT UNTIL APRIL 5TH. IN ORDER FOR US TO PLACE THE CABLE TV CABLE IN THE GROUND WITH THE TELEPHONE CABLE WE WOULD LIKE TO HAVE SOME KIND OF AN INDICATION. WE DON'T HAVE TO HAVE AN ANSWER. BUT SOME KIND OF AN INDICATION AROUND OR BEFORE JUNE 1ST SO THAT WE CAN ORDER THE CABLE, PLACE IT IN THE GROUND ALONG WITH THE TELEPHONE CABLE. OTHERWISE IF WE PLACE THE TELEPHONE CABLE THE HOLE IS COVERED UP. WE CAN'T PLACE ANY TV CABLE IN THERE AGAIN. THAT'S GONNA BE GONE. THE OTHER REFERENCE I GUESS WAS THERE WERE ON THE LAST PAGE SOME OF MY REMARKS THAT WERE TRANSCRIBED FROM SOME VIDEO TAPE THAT WAS MADE OF THE MEETING OF ME ANSWERING THE QUESTION ABOUT THAT FACT AND IT SEEMS LIKE FROM READING THAT THAT I WAS ON DRUGS THAT EVENING OR SOMETHING LIKE THAT. IT'S NOT A VERY COHERENT ANSWER. AND I CAN TELL YOU THAT THE REASON THAT IT WASN'T A VERY WELL THOUGHT OUT ANSWER WAS THAT I DIDN'T THINK I WOULD BE ASKED THAT QUESTION NUMBER ONE AND I REALLY DIDN'T WANT TO REVEAL THE FACT THAT IF WE DON'T PLACE THIS CABLE BY JUNE 1ST, IT PROBABLY WON'T GET PLACED. I DIDN'T WANT TO MAKE IT SEEM LIKE WE WERE STRONG-ARMING THE CABLE COMMISSION INTO SAYING LOOK DO THIS, CHANGE THESE FRANCHISE AGREEMENTS. OR WE'RE NOT GOING TO PROVIDE CABLE TV. I DIDN'T WANT TO MAKE IT APPEAR TO LOOK THAT WAY THAT WE WERE SAYING THAT. AND I WAS TRYING TO DELICATELY I GUESS HEDGE THE ISSUE AND NOT MAKE IT LOOK AS THOUGH WE WERE TWISTING ARMS TO GET OUR WAY. AND AFTER I LEFT THE MEETING I THOUGHT ABOUT WHAT HAD HAPPENED AND THE FACT THAT IT DIDN'T LOOK LIKE THIS WAS GONNA HAPPEN SO IN MY LETTER TO MR. SNYDER I INDICATED THAT WE NEED TO HAVE SOME KIND OF A, YOU KNOW, IN ORDER FOR ME TO MAKE A DECISION ABOUT ORDERING THE CABLE I'D LIKE TO HAVE SOME KIND OF AN INDICATION AS TO WHETHER YOU THINK THIS IS GONNA HAPPEN. AND ALSO THAT WAS ONE OF THE REASONS WHY I REMOVED THE LOCAL OFFICE

LANGUAGE JUST TO TRY TO MAKE IT EASIER. TO MAKE IT LESS OF AN ISSUE FOR ONE OF MARCUS' ATTORNEYS OR SOMEONE ELSE'S ATTORNEYS TO ARGUE ABOUT THE FACT THAT IT'S NOT FAIR. SO WE TOOK THAT OUT OF THERE

3:45:34 **MAYOR FERGUSON:** I'M CONCERNED ABOUT A COUPLE THINGS HERE. NUMBER ONE, HERE AGAIN I CAN UNDERSTAND THE RELUCTANCE OF A COMPANY TO GIVE AWAY SECRETS TO A COMPETITOR. THIS OF COURSE, IS UNDERSTANDABLE. BUT YOU'RE TALKING ABOUT A JUNE 1ST DATE AND WE DON'T KNOW WHAT THE HECK YOU'RE GONNA DO. THIS CONCERNS ME. I ASKED YOU A QUESTION AT THE CABLE COMMISSION MEETING AND YOU ANSWERED IT VERY FORTHRIGHTLY. I ASKED YOU IF YOU HAD THE RESOURCES TO GO AHEAD WITH AN AMBITIOUS PROJECT OF THIS SORT AND YOU REASSURED ME THAT YOU HAVE. BUT I'M WONDERING WHETHER OR NOT WE ARE BEING PRESSURED INTO SOMETHING WHEN WE REALLY DON'T KNOW WHAT YOU'RE OFFERING.

3:46:23 **VERGIN:** WHAT WOULD YOU LIKE TO KNOW

3:51:05 **VERGIN:** I DON'T WANT TO MAKE IT APPEAR LIKE WE ARE STRONG-ARMING ANYONE TO DO THIS BUT IT'S THE REALITIES OF WHAT IT IS THAT WE HAVE PLANNED AND NOT TO SAY THAT IF WE DON'T HAVE A DECISION FROM THE COUNCIL BEFORE JUNE 1ST THAT WE WOULDN'T GO AHEAD AND PUT THE CABLE IN THE GROUND. THERE'S NOTHING IN THE ORDINANCE THAT PREVENTS US FROM PUTTING COAX CABLE IN THE GROUND, IT ACTUALLY PREVENTS US FROM, IF WE DON'T HAVE AN ORDINANCE, FROM SERVING A CUSTOMER. IT WOULD HAVE TO BE A CALCULATED RISK ON OUR PART TO DO THAT WITHOUT A FRANCHISE. AND YOU KNOW BASED ON THE FEEL THAT WE GET HERE TONIGHT AND WHAT THE CUSTOMERS, WHAT THE SUBSCRIBERS HAVE TO SAY ABOUT IT WOULD BE THE DETERMINING FACTOR FOR US

3:51:54 **COUNCILMEMBER DROST:** I'VE HEARD CONTRARY ON THE SUBJECT OF YOU PUTTING COAX IN THE GROUND. I'VE HEARD IT BOTH WAYS THAT YOU DO NEED SOME SORT OF AN AGREEMENT WITH THE CITY

3:52:10 **VERGIN:** THAT WAS MY INTERPRETATION. I INTERPRETED THE FRANCHISE MEANING THAT COAX CAN BE USED FOR SEVERAL OTHER THINGS OTHER THAN TV FOR INSTANCE. IT COULD BE USED FOR DATA, FOR INTERNET, OR WHATEVER. SO WHAT'S IT USED FOR... THAT'S MY INTERPRETATION. YOUR ATTORNEY MIGHT HAVE SOME OTHER INTERPRETATION.

3:52:34 **COUNCIL MEMBER DROST:** JUST SO YOU DIDN'T GO AHEAD AND BURY TOMORROW AND THEN FIND OUT NEXT WEEK THAT...

3:54:50 **MARCUS MANAGER SANDERSON** COMMENTS

3:59:01 **CABLE DIRECTOR GIVENS:** I WOULD LIKE TO MAKE COMMENT TO SOME THINGS THAT BOTH MARCUS AND CHIBARDUN SAID IF YOU ARE AT THE POINT OF CONSIDERING GRANTING THE REQUEST OF CHIBARDUN. IN OTHER WORDS IF YOU ARE NOT GOING TO LOOK AT FURTHER STUDY AND GOING ALONG WITH THE TELECOMMUNICATIONS ORDINANCE THAT WOULD FIT FUTURE NEEDS AND IF YOU ARE IN FACT GOING TO MAKE A DECISION TONIGHT ON CHIBARDUN'S REQUEST, I WOULD LIKE TO ADDRESS SOME OF THE COMMENTS THAT HAVE BEEN MADE. IF NOT, THEN I WOULDN'T LIKE TO AT THIS TIME.

3:59:33 **MAYOR FERGUSON:** PLEASE DO. DO YOU HAVE ANY COMMENTS ON ISSUES WE'VE BROUGHT UP?

3:59:45 **CABLE DIRECTOR GIVENS:** I GUESS I'M NOT UNDERSTANDING WHAT YOU'RE SAYING TO ME. WHAT I'M SAYING TO YOU IS THAT I'D RATHER NOT DISCUSS THEIR COMMENTS UNLESS I NEED TO DO THAT TO SWAY YOU TOWARD NOT TAKING ACTION. IF YOU'RE LOOKING AT A TELECOMMUNICATIONS ORDINANCE AND GETTING A CONSULTANT, HAVING AN ORDINANCE DRAFTED, HAVING IT PASSED BY AN ATTORNEY AND BASICALLY SLOWING DOWN AND TAKING THIS THING A STEP AT A TIME LIKE I FEEL IT SHOULD BE DONE. AND THAT IS BECAUSE THERE ARE MANY FEDERAL REGULATIONS

THAT YOU AREN'T EVEN AWARE OF, LET ALONE WOULD KNOW THE STIPULATIONS OF, STATE REGULATIONS

4:00:26 **MAYOR FERGUSON:** HENCE YOUR ASKING FOR ADVICE FROM AN ATTORNEY OR SOMEONE KNOWLEDGEABLE IN THAT FIELD TO HELP US IN PREPARING AN ORDINANCE SHOULD WE WISH TO DO SO.

4:00:33 **CABLE DIRECTOR GIVENS:** CORRECT. AND TO DEAL WITH CHIBARDUN'S REQUEST. I GUESS AS AN EXAMPLE. WE'VE HEARD THAT THE FRANCHISE ENDS IN 2001, IT WAS A 15 YEAR FRANCHISE. THERE'S TWO STATEMENTS THERE. ONE IN MY MIND, YOU CAN LOOK AT IT AS CHIBARDUN HAS CHOSEN TO. IS THAT IF YOU GIVE THEM A FRANCHISE, YOU'RE GIVING THEM ANOTHER 15 YEAR FRANCHISE. THAT'S NOT NECESSARILY THE CASE. WHAT YOU HAVE IS A FRANCHISE ORDINANCE THAT WAS ADOPTED IN 1986 THAT HAD A TERM OF 15 YEARS IN 1986. THAT ORDINANCE ENDS IN 2001. AND THAT IS ANOTHER WAY OF LOOKING AT IT. NOT THAT IT'S A 15 YEAR FRANCHISE FROM GRANTED TO DAY BUT 15 YEAR FRANCHISE ORDINANCE SUNSETTING IN 2001.

4:01:19 **MAYOR FERGUSON:** BUT THAT ORDINANCE ENACTED IN 1986 DID NOT ADDRESS THE QUESTION OF ONE OR MORE OR TWO OR MANY OF THE DIFFERENT COMPANIES COMING IN, DID IT?

4:01:30 **CABLE DIRECTOR GIVENS:** NO.

4:01:31 **MAYOR FERGUSON:** AND IT DID NOT BRING UP THE QUESTION OF EXCLUSIVITY DID IT?

4:01:31 **CABLE DIRECTOR GIVENS:** YES. THERE IS NO EXCLUSIVE FRANCHISE. WHAT I'M SAYING TO YOU IS THAT IF YOUR INTENTIONS ARE TO TONIGHT DISCUSS AND POSSIBLY TAKE ACTION ON CHIBARDUN'S REQUEST I WOULD LIKE TO GO INTO FURTHER DETAIL.

4:01:55 **COUNCIL** ADOPTS MOTION TO HIRE CONSULTANT AND ATTORNEY

EXHIBIT 6

REGULAR SESSION

May 13, 1997

The regular meeting of the City of Rice Lake Common Council was held on Tuesday, May 13, 1997 at 7:00 p.m. in the Council Chambers.

Members Present: Mayor Ferguson, Councilmembers Richter, Radtke, Heldke, Drost, Dorrance, Rowe, and Dietz.

Also Present: City Administrator Snyder, City Clerk-Treasurer Morse, and City Attorney Friess.

Members Absent: None.

Arriving Late: Councilmember Angell.

Mayor Ferguson called the meeting to order, followed with prayer by Pastor Peggy Haumschilt, and pledge of allegiance.

PUBLIC HEARING:

- A. Zoning change a part of Outlot 245 of the City of Rice Lake from Commercial (C) to Residential (R1)/Tom Moullette, Owner

Citizens For: None.

Citizens Against: None.

Motion by Councilmember Dorrance; seconded by Councilmember Radtke to approve the rezoning from Commercial "C" to Residential "R1" for a part of Outlot 245 of the City of Rice Lake owned by Thomas Moullette.

Voting For: Councilmembers Radtke, Heldke, Drost, Dorrance, Rowe, Dietz, and Richter

Voting Against: None

Motion Carried.

Public Appearances:

Iola Willert presented the Commission on Aging-Rice Lake Senior Center's first quarter 1997 Report including activities and number of participants.

CONSENT AGENDA:

Motion by Councilmember Drost; seconded by Councilmember Richter to approve the consent agenda as follows:

- A. Approval of minutes of Regular Session (April 22, 1997), Work Session (May 5, 1997) and Special Session (May 5, 1997).

- B. Approval of licenses:

<u>Bartender(s)</u>	<u>Electrician</u>	<u>Rental Housing Renewal</u>
Anthony W. Lipp	Town & Country Electric	Craig Larson, 605 W. Knapp Street
Roxanne Everaert	(Roland G. Stephenson, CM)	Craig Larson, 1908 Augusta Street
Donald E. Barker		Alan Christensen, 31 Reuter Avenue
Sandra L. LeVan		

- C. Annual Liquor/Beer License Renewals

To approve the review of the annual liquor license renewal applications, as submitted, except Altimitts, Inc., a corporation, covering premises at 1816 South Main Street, for a Combination Class "B" license to sell Fermented Malt Beverages and a "Class B" License to sell Intoxicating Liquors with Larry E. Alt as agent.

- D. Federal Rangers Pistol Range Use Request

To approve the informal agreement between the City of Rice Lake and the Federal Riverway Rangers relating to the use of the City's firing range.

E. Mayor's Tourism Commission Appointments

To approve the Mayor's Tourism/Retail Development Commission appointments as follows: Sidney Konell to fill Mary Somers' unexpired term through April, 1998 and Hans Buchmann, III to fill Harry Skulan's unexpired term through April, 1999.

F. Street Use Permit for Camp Courage Charity

To absorb the In-kind police, parks and street department costs; waive the fees and performance bond; require the applicant to sign a liability release form; and supply a Certificate of Insurance to the City prior to issuance of the Street Use Permit for the Camp Courage Wagon Train on Saturday, June 14, 1997 from 6:00 a.m. to 9:00 a.m. on various streets, as submitted.

G. Part-time Transit Vacancy Advertisement

To authorize deviation from the compensation policy and advertise the regular part-time Transit Driver position with a starting wage of \$8.99/hour.

H. Rice Lake Aquafest Corporation Temporary Class "B" License

To approve the Rice Lake Aquafest Corporation's Temporary Class "B" Retailer's License for June 12-14, 1997 at 37 South Main Street, require the applicant to sign a liability release form supplied by the City and waive the Certificate of Insurance requirement.

~~I. Transfer of Osterbauer's "Class A" Liquor License (Moved to 7B-1)~~

J. 1st Reading Ordinance No. 839 for Traffic Control "Stop" Sign Installation (Macauley Avenue at Allen Street, Gates Street at Kern Avenue, Marian Street at Linden Avenue and Royal Boulevard at Linden Avenue)

To adopt the 1st reading of Ordinance No. 839, Amending and Recreating Section 10-1-8, authorizing placement of traffic control devices for the City of Rice Lake (stop sign installation on Macauley Avenue at Allen Street; Gates Street at Kern Avenue; Marian Street at Linden Avenue; and Royal Boulevard at Linden Avenue).

K. 1st Reading Ordinance No. 842 for Traffic Control "Stop" Sign Installation (Gessel Avenue at Duke Street, Gessel Avenue at Lee Street, Linden Avenue at Duke Street, Linden Avenue at Lee Street, Bismark Avenue at Duke Street and Marshall Street at Havel Road)

To adopt the 1st reading of Ordinance No. 842, Amending and Recreation Section 10-1-8, authorizing placement of traffic control devices for the City of Rice Lake (stop sign installation on Gessel Avenue at Duke Street; Gessel Avenue at Lee Street; Linden Avenue at Duke Street; Linden Avenue at Lee Street; Bismark Avenue at Duke Street; and Marshall Street at Havel Road).

L. Drive Exceedance Approval at 520 E Orchard Beach Lane, Redeemer Evangelical Lutheran Church-WELS, Owner

To approve the Redeemer Evangelical Lutheran Church's request for a second drive access, 30 feet in width from Kern Avenue and widening of the present access from East Orchard Beach Lane from 20 to 30 lineal feet.

M. Drive Exceedance Approval at 230 E Coleman Street, Sherman Wood, Owner

To approve Sherman Wood's request for a 24 foot wide drive access at 230 East Coleman Street.

N. Drive Exceedance Approval at 625 E Orchard Beach Lane, Clifton Beyer, Owner

To approve Clifton Beyer, Jr.'s. request for a second drive entrance from Center Street for 625 East Orchard Beach Lane.